



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/560,248

03/22/2006

Andrea Zuccheri

J1036.0008/P008

5013

24998 7590 07/08/2009

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

EXAMINER

ALLEN, JEFFREY R

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

07/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,248	Applicant(s) ZUCCHERI ET AL.	
	Examiner JEFFREY ALLEN	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9 and 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

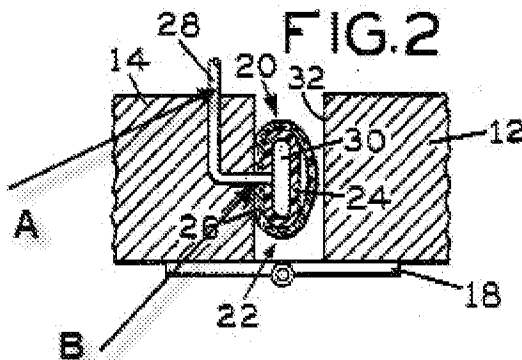
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-6 and 8-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Dyk, Jr. (U.S. Patent No. 4,371,175).

3. Regarding claims 1, 2 and 4-6, Van Dyk discloses a protective structure comprising a frame (14), panels (12) fastened to the frame by fastening means (18) which create a gap (22) between the frame and panel and an elliptical shaped, tubular gasket means (24) that is closed at both ends which can be expanded by forcing fluids under pressure to engage with the frame and panel to form a seal whereby in the non-operating condition the gasket is separated from the panel (col. 4, lines 50-54) and opposite ends of the gasket are fastened to top and bottom portions of the frame (A and B in Fig. 2 below labeled by examiner, the features of fig.2 are located at opposite ends of the structure). Van Dyk further discloses the gasket being made of an elastic material (col. 4, lines 33-35) that is resistant to sterilizing products (every material is resistant to some extent). A tube (28) is connected at one end of the gasket wall (the left side of the gasket shown in Fig. 2 is an end of the gasket wall) to provide a means for supplying fluid under pressure.



4.

5. Regarding claims 9 and 11, Van Dyk discloses the gasket in connection with means of supplying fluid under pressure wherein the means is a compressor (col. 4, lines 38-39). The connection between the compressor and gasket is made through tubes (28) inserted into holes in the gasket wall, the connection between the compressor and gasket also being in a parallel arrangement.

6. Regarding claims 12-15, Van Dyk discloses the panels fasted to the frame by hinges (18), the hinges being fixed in a pivoting manner so that that panels can move to an open and closed position, the panels also being able to be locked by a latch mechanism (col. 4, lines 16-18). The structure of the hinges further comprises a guidance means and a sliding means that engage with each other.

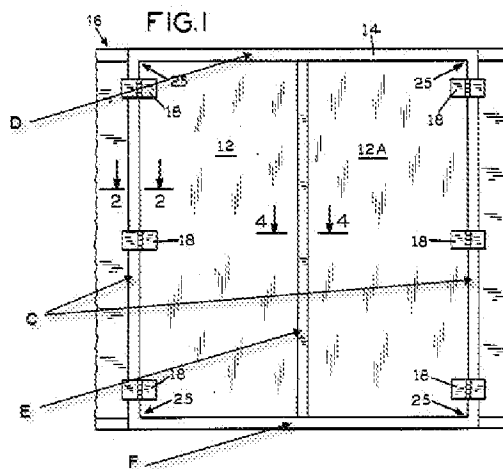
Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyk.

9. Van Dyk discloses all the claimed limitations as shown above and wherein the frame comprises a plurality of uprights (C, Fig. 1 labeled by examiner) connected at the upper end by a perimeter edge (D) and by reinforcing bars (E and F). Van Dyk fails to teach the gasket being fastened to one of the uprights at the top end and to the reinforcing bars the bottom end of the protective structure. It would have been obvious, however, to one of ordinary skill in the art at the time the invention was made to connect the gasket at the locations claimed, since it has been held that rearranging parts of an invention involves only routine skill in the art.



10.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyk in view of Zhang (U.S. Patent No. 6,075,205).

12. Van Dyk discloses all the claimed limitations as shown above but fails to teach wherein the gasket wall is formed from polyurethane elastomers compatible with food processing applications.

Art Unit: 3781

13. Zhang teaches that it is known in the art to manufacture a gasket out of polyurethane (Col. 7, lines 28-35).

14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the gasket of Van Dyk out of polyurethane, as taught by Zhang, since it is a resilient material compliant over a wide range of temperatures and it exhibits good compression relaxation characteristics (Zhang, col. 7, lines 27-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the material compatible with food processing applications since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyk in view of Sanders (U.S. Patent Application No. 2002/0175089).

16. Van Dyk discloses all the claimed limitations as shown above but fails to teach wherein the fluid is provided in series.

17. Sanders teaches that it is known in the art to inflate pressure vessels in series wherein a first tube extends from a supply unit to an end of a first inflatable member with the opposite end of the inflatable member being connected to another tube that connects to another inflatable member (Fig. 1).

18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have connected the gaskets of Van Dyk in series, as taught by Sanders, so that less tubing has to be used thereby reducing the manufacturing cost.

Response to Arguments

19. Applicant's arguments filed 5/7/2009 have been fully considered but they are not persuasive. Applicant argues that Van Dyk does not teach the limitations of claim one. When given a broad interpretation of the claims however, the invention of Van Dyk reads on all the claimed limitations as shown above. Applicant further argues that Van Dyk teaches away from applicant's invention since Van Dyk states that the ends of the gasket are closed off. The ends of the gasket being closed do not teach away, however, since the gaskets would not remain inflated if they were not closed off. The tubes also act to close off the gaskets. While Van Dyk teaches different from applicant's disclosed invention it does not teach away from it and it still teaches the claimed invention.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3781

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY ALLEN whose telephone number is (571)270-7426. The examiner can normally be reached on Monday through Friday 8:00 AM TO 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./
Examiner, Art Unit 3781

/Anthony D Stashick/
Supervisory Patent Examiner, Art
Unit 3781